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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-8-09 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 83-108 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' recitation of (1.) ranges of amounts of blown vegetable oils used and (2.) ranges of amount values for the respective A- and B-side component parts as set forth in the claims are not supported by the originally filed supporting disclosure in a manner that it is evident that applicants' invention was described in the specification in such a way as to reasonably convey to

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one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. This is a new matter invention.

Applicants' supporting disclosure lacks showing of support for possession of ranges of amount values for these respective claim components as now defined by the claims.

Applicants' arguments have been considered. However, rejection is maintained. The recited value points for specific exemplified embodiments of applicants' invention are not supportive of the ranges of values now claimed. Further, even though applicants are now reciting ranges that are, perhaps, more represented by the examples, it is maintained that these examples are not supportive of the range of values for materials encompassed by the claims as they currently stand.

Claims 83-100 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' recitation of "urethane" in describing its catalyst lacks support by the originally filed supporting disclosure such that it is not evident that applicants, at the time the application was filed, had possession of the invention as now claimed. This is a new matter invention.

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Applicants' supporting disclosure lacks showing of support for possession of the distinction of their catalyst as being a "urethane" catalyst.

Applicants' arguments have been considered. However, rejection is maintained. The recited catalysts from paragraph [0040] of applicants' specification are not supportive of the group of catalysts identified as "urethane" catalysts.

Claims 83-108 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' recitation of ranges of heat values set forth in their claims (see claims 83, 93, 94, 96, 97 and 101) are not supported by the originally filed supporting disclosure in a manner that it is evident that applicants' invention was described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. This is a new matter invention.

Applicants' supporting disclosure lacks showing of support for possession of ranges of heat values for these respective claim components as now defined by the claims.

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Applicants' arguments have been considered. However, rejection is maintained. The recited value points for specific exemplified embodiments of applicants' invention are not supportive of the ranges of values now claimed.

Claims 84 and 85 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' recitation of ranges of amounts of the transesterified polyol are not supported by the originally filed supporting disclosure in a manner that it is evident that applicants' invention was described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. This is a new matter invention.

Applicants' supporting disclosure lacks showing of support for possession of ranges of amount values for these respective claim components as now defined by the claims.

Applicants' arguments have been considered. However, rejection is maintained. The recited value points for specific exemplified embodiments of applicants' invention are not supportive of the ranges of values now claimed. Further, even though

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applicants are now reciting ranges that are represented by the examples at the claimed endpoints for specified compositions, it is maintained that these examples are not supportive of the range of values for materials encompassed by the claims as they currently stand.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 83-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Croft (5,688,860) in view of Burke(4,185,146) and Trowell (4,720,571).

Croft discloses polymer materials comprising the reaction product of isocyanates, isocyanate reactive materials, catalysts, plasticizers, extenders/crosslinkers, and other materials of applicants' claims (see column 3 line 53 et seq. & column 10 line 60 – column 12 line 40, as well as, the entire document). Difference based on the ranges of A-side to B-side ratios {isocyanate Index values} is not seen.

Croft differs from applicants' claims in that it does not employ blown vegetable oils in its preparation. However, Burke (see column 1 lines 26-33, as well as, the entire document) discloses blown vegetable oils, including soya oil, to be well known materials used in urethane applications for purposes of providing acceptable reactant materials in

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forming urethane products. Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the blown vegetable oils as isocyanate reactant materials in the preparations of Croft for the purpose of providing acceptable, natural, reactant materials in the reactive mixture in order to arrive at the products of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results. As to the employed amounts of this respective component, it has long been held that where the general conditions of the claims are disclosed in the prior art, discovering the optimal or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233; *In re Reese* 129 USPQ 402. Similarly, it has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). One looking employ a more environmentally friendly and less petroleum dependent reactive mix in balance with the other benefits of petroleum based polyols would towards variations in the amounts of respective components with the expectation of success in the absence of a showing of new or unexpected results that are attributable to differences in the claims and commensurate in scope with the scope of the claims. Further, selection of any known transesterification catalyst for purposes of providing transesterification would have been within the purview of the ordinary practitioner in the art in the absence of a showing of new or unexpected results that are demonstrated to be associated with the particular selection identified by the claim(s).

The teachings of Croft in view of Burke differ from applicants' claims in that they do not disclose employment of transesterification/esterification catalysts. However,

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Trowell (column 3 lines 54-57, as well as, the entire document) discloses the employment of transesterification/esterification catalysts to be well known to the polyurethane foam forming art for their effect of converting ester group containing materials to into isocyanate reactant materials. Accordingly, it would have been obvious for one having ordinary skill in the art to have employed transesterification catalysts disclosed by Trowell in the preparations arriving from the combined teachings of Croft and Burke for the purpose of modifying the reactivities of the reactant materials and enabling enhanced properties in order to arrive at the products of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Applicant's arguments with respect to claims 83-108 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Cooney/

Primary Examiner, Art Unit 1796